

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff

DECISION and ORDER

-vs-

11-CR-6201

JOHN BARTON

Defendant

Siragusa, J. This case was referred by text order of the undersigned, docketed on December 13, 2011, ECF No. 2, to Magistrate Judge Marian W. Payson, pursuant to 28 U.S.C. § 636(b)(1)(A)-(B). Previously, on December 8, 2011, Magistrate Judge Payson filed a Report and Recommendation ("R&R") ECF No. 52, recommending that the Court deny Defendant's *pro se* motion, ECF No. 25, September 7, 2011, to dismiss the criminal complaint upon which he was originally arrested. The time has passed for Defendant to file any objections to the R&R, and none have been filed.

Accordingly, for the reasons set forth in Magistrate Judge Payson's R&R, the Court denies Defendant's motion to dismiss the criminal complaint.¹

IT IS SO ORDERED.

Dated: Rochester, New York
January 15, 2012

ENTER:

/s/ Charles J. Siragusa
CHARLES J. SIRAGUSA
United States District Judge

¹

Alternatively, the motion to dismiss the criminal complaint is denied as moot, since Indictment # 11-CR-6201 is now the operative pleading in the case.